

TITLE 7. EDUCATION
CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

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ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of R7-5-101, made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-101. Definitions

For the purpose of this Chapter, the following definitions apply:

"Accounting industry regulatory body" means any state or federal regulatory body that has the authority to discipline a certified public accountant or audit firm.

"Administrative completeness review time-frame" means the number of days from the Board's receipt of an application package to obtain a charter until the Board determines whether

the application package contains all components required by statute and rule. The administrative completeness review time-frame does not include the period during which the Board performs a substantive review of the application.

"Applicant" means a person that applies to the Board for a new charter or to transfer a charter under A.R.S. § 15-181 et seq.

"Application" means the Board-approved forms and instructions for a stated fiscal year, which are available on-line and in writing.

"Application package" means an application, narrative, and documents described in the application.

"Audit" means a charter holder's annual audit, as required by A.R.S. § 15-914.

"Audit contract" means an engagement letter provided by an audit firm that describes the terms of a contract between a charter holder and the audit firm.

"Audit firm" means a business that conducts an independent audit for a charter school.

"Audit guidelines" means the Board-approved general guidance on charter school audit requirements, which is available online and in writing.

"Authorized representative" means an individual with the power to bind a charter holder contractually according to the charter holder's Articles of Incorporation, operating agreement, or by-laws.

"Board" means the Arizona State Board for Charter Schools.

"Charter" means a contract between a person and the Board to operate a charter school under A.R.S. § 15-181 et seq.

"Charter holder" means a person that enters into a charter with the Board.

"Charter school" means a school operated under a charter granted under A.R.S. § 15-181 et seq.

"Day" means a business day.

"Department" means the Arizona Department of Education.

"Fiscal year" means the 12-month period beginning July 1 and ending June 30.

"Good standing" means that a supervising certified public accountant or audit firm has no current or pending disciplinary action or any regulatory action that requires the supervising certified public accountant or audit firm to complete conditions specified by an accounting industry regulatory body.

"Overall time-frame" means the number of days after receipt of an application package until the Board determines whether to grant or deny a charter. The overall time-frame consists of both the administrative completeness review time-frame and the substantive review time-frame.

"Peer review" means an external quality control review as required by generally accepted government auditing standards that determines whether an audit firm's internal quality control system is in place and operating effectively, and provides assurance that established policies and procedures and applicable auditing standards are being followed.

“Person” means an individual, partnership, corporation, association, or public or private organization of any kind.

“Preliminary application package” means a complete application package that is forwarded to the Technical Review Panel for scoring.

“Principals” means the officers, members, partners, or board of an applicant.

“Revised application package” means a complete application package submitted by an applicant after receiving written notification that the applicant’s preliminary application package failed to meet the scoring criteria of R7-5-203.

“Serious impact finding” means an issue identified by the Board that in the opinion of the Board has or potentially has a significant impact on the operation of the school or students, such as threat to the health and safety of children, failure to meet the academic needs of the children, gross violation of generally accepted accounting principles that increases the opportunity for fraud or theft, or repeat issues of non-compliance.

“Substantive review time-frame” means the number of days after an application package is determined to be administratively complete until the Board decides whether to grant or deny a charter.

“Sufficiently qualified” means the Board’s determination that an applicant’s or charter holder’s experience, qualifications, current and prior charter compliance, and creditworthiness indicate an ability to implement a charter or operate a charter school.

“Supervising certified public accountant” means the certified public accountant responsible for leading the audit work or signing the final audit.

“Technical Review Panel” means individuals appointed by the Executive Director of the Board who use their expertise in charter school development, curriculum, and finance to assist in the evaluation of a preliminary or revised application package.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

ARTICLE 2. NEW CHARTERS

Article 2, consisting of R7-5-201 through R7-5-204, made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-201. Application for a New Charter

- A. By March 31 of each year, the Board shall approve and make available in writing at its office and on-line at its web site an application for a new charter for a specified fiscal year.
- B. A person desiring to establish a charter school shall submit an unbound original application package and five bound copies of the application package to the Board.
- C. An applicant for a new charter shall ensure that the submitted application package contains the following in the order listed:
 1. Cover Sheet form;
 2. Title Page form;
 3. Target Population form;
 4. Curricular Emphasis. A narrative describing the proposed charter school’s program of instruction including its philosophy, special emphasis, and methods of instruction and assessment in relation to achieving the school’s mission;

5. Goals form;
6. Curriculum Sample. A reading, writing, and math sample for each grade level to be served. Each sample will include a student assessment, description of instruction, description of student activities, and an indication of alignment with the Arizona Academic Standards;
7. Monitoring of Program of Instruction. A narrative and examples regarding dissemination of information to teachers, tracking of students’ progress toward mastery of state standards, and integration of Arizona Academic Standards into instructional practices;
8. Special education delivery models to be used;
9. Business Plan. A detailed business plan including:
 - a. Business description,
 - b. Marketing plan,
 - c. Management plan,
 - d. Resumes of the principals and authorized representative,
 - e. Background information form,
 - f. Valid fingerprint clearance cards for the principals and authorized representative,
 - g. Affidavit form,
 - h. Copy of Arizona filing required to conduct business in Arizona by the Arizona Corporation Commission or Arizona Secretary of State,
 - i. Financial plan,
 - j. Start-up budget with assumptions form,
 - k. Three-year operating budget form, and
 - l. First year month-by-month cashflow form;
10. Compliance Assurances form;
11. Certificate of Workshop Attendance or Workshop Waiver form;
12. Bibliography; and
13. Application Checklist form.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-202. Time-frames for Granting or Denying a New Charter

- A. For granting or denying a charter, the time-frames required by A.R.S. § 41-1072 et seq. are:
 1. Administrative completeness review time-frame: 25 days;
 2. Substantive review time-frame: 175 days; and
 3. Overall time-frame: 200 days.
- B. An administratively complete application package for a charter school consists of all the information and documents listed in R7-5-201.
- C. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), begins on the date the Board receives an application package.
 1. If the application package is not administratively complete when received, the Board shall provide to the applicant a notice of deficiency that states the documents and information that are missing.
 2. Upon written notice to the applicant that the application package is incomplete, the Board shall close the applicant’s file.
 3. If the application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 4. If the Board does not provide a notice of deficiency or administrative completeness to the applicant within the administrative completeness review time-frame, the

application package is deemed administratively complete.

- D. A substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(2), begins when an application package is determined to be administratively complete.
- E. Within the time provided in subsection (A)(3), the Board shall provide the applicant with written notice of its decision to grant or deny a charter.
 - 1. The Board shall deny a charter if it determines that the application package does not meet the requirements of statute or rule or the applicant is not sufficiently qualified to operate a charter school. The written notice shall include the basis for the denial. The applicant may:
 - a. Submit a new application under R7-5-201 for consideration by the Board; or
 - b. Appeal the Board's decision as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
 - 2. The Board shall grant a charter if it determines that the application package meets the requirements of statute and rule and the applicant is sufficiently qualified to operate a charter school.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-203. Review of Application Package and Technical Assistance

The review of a complete application package is as follows:

1. The Technical Review panel shall score the preliminary application package using the scoring criteria provided in the application.
2. The Board staff shall conduct background investigations of the applicant.
3. The Board shall notify the applicant if the preliminary application package fails to meet the expectations as evaluated by the Technical Review Panel. The Board shall include with the notice the comments of the Technical Review Panel, which will serve as technical assistance, and suggestions for improving the application package.
4. An applicant who receives notification of failure to meet the expectations as evaluated by the Technical Review Panel may, within 20 days of the postmark date on the notice, submit a revised application package or a letter requesting that the preliminary application package be forwarded to the Board.
5. If a revised application package or letter is not submitted to the Board within 20 days of the postmark date on the notice of failure to meet the expectations, the Board shall close the applicant's file. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201.
6. If a revised application package is submitted, the Technical Review Panel shall score the revised application package using the scoring criteria provided in the application.
7. If a revised application package fails to meet the expectations as evaluated by the Technical Review Panel, the Board shall notify the applicant of the intent to close the file. The Board shall include with the notice the comments of the Technical Review Panel.
8. An applicant who receives notification of the Board's intent to close the file may, within 20 days of the postmark date on the notice, submit a letter requesting that the revised application package be forwarded to the Board.
9. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201.

10. The Board shall consider an application package if the Technical Review Panel determines that the application package meets or exceeds the expectations or if the applicant requests under subsection (4) or (8) that the Board consider an application package that fails to meet the expectations. In conducting its consideration of an application package, the Board shall:
 - a. Review a copy of the application package scored by the Technical Review Panel;
 - b. Review a copy of the scoring rubric completed by the Technical Review Panel;
 - c. Review all information obtained through verification and investigation of an applicant's background including employment, education, fingerprint clearance card, and assessment of creditworthiness;
 - d. Hear a brief presentation by the applicant; and
 - e. Listen to the applicant's responses to Board questions.
11. The Board shall provide an applicant, with at least seven days written notice of the date, time, and place of the meeting at which the Board will consider the applicant's application package.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-204. Execution of a Charter

- A. After the Board grants a charter, and before the contract is signed, the charter holder shall submit to the Board the following:
 1. Completed I.R.S. Form W-9, Request for Taxpayer Identification Number and Certification, obtained from the Board;
 2. School site location information;
 3. General Statement of Assurances form obtained from the Board;
 4. Copy of the statement filed with the Secretary of State under A.R.S. § 38-431.02; and
 5. Copy of the lease agreement, if any, for each school site.
- B. A new charter shall be signed by the Board President or designee and the charter holder or authorized representative within 12 months after the Board grants the charter.
- C. A charter that is not timely signed expires. If the holder of an expired charter wants to obtain a new charter, the holder shall apply again under R7-5-201.
- D. A charter holder shall begin providing educational instruction within 12 months after signing the charter or within 24 months after the Board grants the charter, whichever occurs later.
- E. A charter holder shall submit to the Board written proof that the charter school is in compliance with federal, state, and local rules, regulations, and statutes relating to health, safety, and insurance at least 10 days before the first day of operation of the charter school by submitting:
 1. School site contact information;
 2. Certificate of occupancy for each school site;
 3. Fire marshal report for each school site;
 4. Insurance policy binder issued by an insurance company licensed to do business in Arizona;
 5. County health certificate for each site at which students will be taught;
 6. Evidence of a public meeting, required by A.R.S. § 15-183(C)(5), at least 30 days before the charter holder opens a site for the charter school; and
 7. Certificate of attendance of the authorized representative or principal at the special education training for new char-

ters offered by the Arizona Department of Education, Exceptional Student Services Division.

- F. A charter is effective for 15 years from the first day of operation of the charter school unless revoked under A.R.S. § 15-183(I).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

ARTICLE 3. CHARTER OVERSIGHT

R7-5-301. General Supervision, Oversight, and Administrative Responsibility

- A. A charter holder shall comply with the provisions of its charter and with federal and state laws at all times.
- B. The Board may use any of the following means in performing its administrative responsibilities to and general supervision and oversight of a charter holder:
1. Oral, written, and electronic communication with the authorized representative or charter school personnel;
 2. Oral, written, and electronic communication with representatives of federal, state, and local agencies having jurisdiction over the operation of the charter school or having the authority to investigate or adjudicate allegations of misconduct by any member of the charter school's staff;
 3. Oral, written, and electronic communication with students, parents, or outside parties regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school's staff;
 4. Collection and review of reports, audits, data, records, documents, files, and communication from any source relating to any activity or program conducted by or for the charter school;
 5. A corrective action plan as described in R7-5-302; and
 6. A site visit as described in R7-5-303.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-302. Corrective Action Plan

- A. Upon receipt of information under R7-5-301(B) that a charter holder is not in compliance with the provisions of its charter or federal or state laws, the Board shall consider the following factors in determining whether a corrective action plan (CAP) is required:
1. The seriousness of the offense;
 2. The charter holder's history of compliance with the provisions of its charter and federal and state laws;
 3. The length of time the offense has been occurring; and
 4. Any other factors relating to the charter holder's compliance with the provisions of its charter and federal or state laws.
- B. If the Board requires a CAP, it shall make a written request to the charter holder for the submission of a CAP to be implemented to remedy the offense. The request shall include:
1. A description of the offense,
 2. A list of the specific criteria to be included in the CAP,
 3. A deadline for the submission of the CAP,
 4. A timeline for the implementation of the CAP, and
 5. The consequences for failure to submit or implement the CAP.

- C. The Board shall decide to accept the CAP based on whether the specified criteria stated in the request are included in the CAP.
1. The Board shall provide written notification to the authorized representative regarding the acceptance or rejection of the CAP.
 2. Written notification that the Board rejected the CAP shall include the reason for the rejection, the deadline for submission of the revised CAP, and the consequences for failure to submit a CAP that meets the specified criteria.
- D. The Board shall monitor the charter holder's implementation of the approved CAP to ensure the offense is rectified.
1. The charter holder shall demonstrate to the Board through documentation or a site visit that steps have been taken to correct the offense or, in the case of a serious impact finding, that the charter holder is currently in compliance.
 2. The Board shall consider possible disciplinary action under R7-5-304 against the charter holder if the charter holder fails to implement the CAP and rectify the offense.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-303. Site Visits; Records; Notice of Violation

- A. A designee of the Board or Department may conduct a site visit of a charter school to review or evaluate the charter school's financial operations, academic program, or compliance with the provisions of its charter and federal and state laws.
- B. A designee of the Board or Department may conduct a site visit to corroborate information submitted to the Board and to gather information, documentation, and testimony that permit the Board to fulfill its oversight function under the law and ensure the charter school is in compliance with the provisions of its charter and federal and state laws.
- C. A designee of the Board or Department shall conduct a site visit during regular operational hours of a charter school or at any other reasonable time.
- D. A designee of the Board or Department may conduct either an announced or unannounced site visit.
- E. A designee of the Board or Department may conduct an investigation of a charter school in response to concerns raised by students, parents, employees, members of the community or other individuals or groups regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school's staff.
- F. Upon request by a designee of the Board or Department, a charter holder shall open for inspection all records, documents, and files relating to any activity or program conducted by or for the charter school or the charter holder relating to the charter school.
- G. Upon request by a designee of the Board or Department, a charter holder shall provide access to all school facilities.
1. During a site visit, a charter holder shall provide access to classrooms for the purpose of counting students, observing a program of instruction, or documenting individuals providing instruction.
 2. In conducting a site visit, the designee of the Board or the Department shall make every effort not to disrupt the classroom environment.
- H. The Board or Department shall inform a charter holder in writing of any offense identified during a site visit and shall specify any further action that must be taken by the charter holder. In determining the appropriate action to take, the Board shall consider the items in R7-5-304(A).

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- I. The Board shall require a charter holder with a serious impact finding to appear before the Board for possible disciplinary action under R7-5-304.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-304. Disciplinary Action

- A. The Board may discipline a charter holder for violation of its charter or federal or state laws. In determining the appropriate disciplinary action to take, the Board shall consider the following:
1. Threat to the health or safety of children;
 2. Whether the charter holder's historical compliance record indicates repeated or multiple breaches of the provisions of its charter or federal or state laws;
 3. Whether the charter holder has failed to meet the academic needs of the children;
 4. Length of time the offense has been occurring;
 5. The charter holder's compliance with and response to staff investigation in providing necessary information and documentation within requested time-frames;
 6. Whether there has been a misuse of funds; and
 7. Any other factor that has a bearing on the charter holder's ability and willingness to operate in compliance with the provisions its charter and federal and state laws.
- B. The Board shall take disciplinary action against a charter holder based on the Board's assessment of the factors listed in subsection (A). Disciplinary action may include any of the following:
1. Requiring a corrective action plan as described in R7-5-302;
 2. Requesting the Department to withhold up to 10 percent of the charter school's monthly state aid in accordance with A.R.S. § 15-185(H). Upon proof of corrected deficiencies and that the charter holder is in compliance, the Board shall request the Department to restore the full amount of state aid payments to the charter school;
 3. Entering into a consent agreement with the charter holder for the resolution of the non-compliance. The Board shall ensure that the consent agreement:
 - a. Describes each offense;
 - b. Stipulates the facts agreed to by the Board and the charter holder;
 - c. Specifies the actions the charter holder must take to demonstrate compliance and avoid further disciplinary action;
 - d. Provides a timeline for the charter holder to complete the actions specified in the consent agreement;
 - e. Stipulates that if the charter holder fails to comply with the terms and conditions of the consent agreement, the Board may, after giving the number of days notice specified in the consent agreement, hold a hearing at which the Board receives information to determine whether evidence exists that the charter holder has failed to comply with the consent agreement. If the Board determines that the charter holder has breached the consent agreement, the Board may revoke the charter holder's charter; and
 - f. Is approved by the Board and the charter holder and signed by the Board president or designee and the authorized representative;
 4. Issuing a notice of intent to revoke the charter in accordance with A.R.S. § 15-183(I) if the Board determines there is cause to believe that the charter holder may have breached one or more provisions of its charter; and

5. Revoking the charter in accordance with A.R.S. § 15-183(I).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

ARTICLE 4. AMENDMENT TO A CHARTER

Article 4, consisting of R7-5-401, made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

R7-5-401. Amendment to a Charter

- A. A charter holder that wishes to amend its charter shall submit to the Board:
1. A completed charter amendment form approved by the Board,
 2. The support documentation indicated on the charter amendment form, and
 3. Evidence that the proposed charter amendment has been approved by the charter school's governing body.
- B. For approving or disapproving an amendment, the time-frames required by A.R.S. § 41-1072 et seq. are:
1. Administrative completeness review time-frame: 20 days.
 2. Substantive review time-frame: 40 days.
 3. Overall time-frame: 60 days.
- C. A charter holder shall conform to the terms of the charter until an amendment is approved by the Board.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1141, effective March 2, 2004 (Supp. 04-1).

ARTICLE 5. AUDITS AND AUDIT CONTRACTS**R7-5-501. Audit Guidelines**

By July 1 of each year, the Board shall make available to the public at its office and online at its web site, written audit guidelines that provide general guidance on charter school audit requirements, including the deadline for submitting the completed audit to the Board and information that must be included for the audit to be deemed complete.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-502. Approval of Audit Contracts

- A. In accordance with A.R.S. § 15-914 and Laws 1999, 1st S.S., Ch. 4, § 15, a charter holder shall submit to the Board for approval an audit contract for each audit before the audit begins.
- B. The Board shall disapprove an audit contract only for the following reasons:
1. Board knowledge that a person employed by the audit firm has been convicted under a federal or state statute for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;
 2. Failure of the audit firm or supervising certified public accountant to maintain good standing with an accounting industry regulatory body;
 3. Violation of or failure of the audit firm to meet generally accepted auditing standards or generally accepted government auditing standards as identified by an accounting industry regulatory body;
 4. Failure of the audit firm to receive an unmodified opinion during the audit firm's most recent peer review or failure

of any auditor working on the audit to meet the continuing professional education requirements prescribed by generally accepted government auditing standards; or

5. Failure to acknowledge that the audit firm shall adhere to the audit requirements listed in the Board's audit guidelines.
- C. The Board shall provide written notification of approval or disapproval of an audit contract to the charter holder and the audit firm within 10 days of receipt of the audit contract.
- D. The Board shall include the cause for disapproval in a notice of disapproval.
- E. If the charter holder or audit firm provides documentation that demonstrates the cause for disapproval no longer exists, the Board shall approve the audit contract and notify all parties of the approval.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-503. Audit Completeness Determinations

- A. In accordance with A.R.S. § 15-914 and Laws 1999, 1st S.S., Ch. 4, § 15, a charter holder shall submit an audit to the Board for a determination regarding the audit's completeness.
- B. The Board shall find that an audit is incomplete if it does not include all of the items listed in the Board's audit guidelines.
- C. The Board shall provide written notification of a complete audit to the charter holder within five days of the receipt of the audit. The Board shall provide written notification of an

incomplete audit to the charter holder and the audit firm within five days of receipt of the audit.

- D. The Board shall include the cause for the determination in a notice of an incomplete audit.
- E. If the charter holder or audit firm provides documentation that demonstrates the cause for an incomplete audit no longer exists, the Board shall deem the audit complete and notify the charter holder.
- F. The Board shall require that a charter holder whose audit does not include the items stated in the audit guidelines appear before the Board for possible disciplinary action under R7-5-304.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).

R7-5-504. Review of Complete Audits

- A. The Board staff shall review each audit deemed complete.
- B. The Board shall send a letter to a charter holder after the audit is reviewed. If the Board identifies an issue in the audit, the Board shall direct the charter holder to address the issue and based on an assessment of the factors in R7-5-302(A), may require the charter holder to submit a corrective action plan.
- C. The Board shall require that a charter holder with a serious impact finding appear before the Board for possible disciplinary action under R7-5-304.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 577, effective February 7, 2006 (Supp. 06-1).